

CASE NO. 2:24-cv-01589-EJY

**Pro se litigant:**

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

GENAY L. AMERSON, AN INDIVIDUAL

CASE NO. 2:24-cv-01589-EJY

Plaintiff,

**STATUS REPORT OF PLAINTIFF**

vs.

LAS VEGAS COLLEGE; MIKHAIL  
EDUCATION CORPORATION, A DOMESTIC  
CORPORATION; PETER MIKHAIL,  
PRESIDENT OF MIKHAIL EDUCATION  
CORPORATION; DOES 1 through 10; ROE  
ENTITIES 11 through 20, inclusive jointly and  
severally,

Defendants.

The Plaintiff, a pro se litigant, submits the following Status Report, in response to the Status Report of U.S. Department of Education, pursuant to Court's January 27, 2025 Order, ECF No. 38.

1. The PLAINTIFF served OCR Seattle with a subpoena for "documents"<sup>1</sup> in OCR case #10222173 on December 26, 2025 via FedEx Overnight Priority Delivery. OCR signed for the package and scheduled a meet-and confer with the PLAINTIFF that took place on December

<sup>1</sup> "documents" for all intents and purposes is defined under Attachment A – Schedule of Documents to be produced.

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- 1 31, 2024, (5) days after being served the subpoena.
- 2 2. The meet-and-confer left both parties at a standstill, as OCR wanted the PLAINTIFF to quash
- 3 the subpoena and they would slowly produce documents with no guarantee that all documents
- 4 would be delivered; and the PLAINTIFF, wanted a guarantee all documents contained within
- 5 OCR case file #10222173 would be produced and delivered within (7) days time, January 6,
- 6 2025, as this date put them (12) days out from the date of service. The PLAINTIFF was
- 7 concerned with receipt of case file documents because she originally submitted a FOIA
- 8 Request back in July of 2024, that the Department of Education did not respond to until receipt
- 9 of subpoena in this case.
- 10
- 11 3. NRCP 45(a)(4)(B)(ii) requires that before a party may be protected from the subpoena, “the
- 12 objecting party must file and serve written objections to the subpoena and a motion for a
- 13 protective order under Rule 26(c) within 7 days after being served with notice and a copy of
- 14 the subpoena under Rule 45(a)(4)(A)”. Emphasis added. Thus, failure to both object within 7
- 15 days and file a motion within 7 days waives the objections and the right to a protective order.
- 16 Waiver generally applies even if the objection is as to privilege.”<sup>2</sup>
- 17
- 18 4. The Department of Education at no point during their (12) day window did they object to
- 19 subpoena or even hint at Intent to Subpoena as an objection to produce “documents” per
- 20 instructions of subpoena. However the subpoena served was clearly date stamped by the
- 21 Deputy Clerk, on December 10, 2024, and the Notice was proof of proper procedure for the
- 22 State of Nevada per NRCP 45<sup>3</sup>.
- 23
- 24

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25 <sup>2</sup> Cf. Id. (citing Davis v. Fendler, 650 F.2d 1154, 1160 (9th Cir. 1981) (holding in the context of Rule 33  
26 that a “failure to object” “constitutes waiver of any objection” and “is true even of an objection that the  
information sought is privileged”)).

27 <sup>3</sup> NRCP 45(a)(1)(D) authorizes issuance of a subpoena to a non-party to produce evidence  
independent of any deposition or permit inspection of premises.

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- 1 5. The PLAINTIFF has had to wait (7) months to almost receive 2,266 pages, which constitutes  
2 an unknown number of documents, and it is unclear if this is all documentation contained  
3 within OCR case #10222173, as the PLAINTIFF has not had those documents made available  
4 to her in direct contradiction to the U.S. Attorney's Office Status Report, filed on February 14,  
5 2025, that stated on February 13, 2025, "the Department completed its production of records  
6 for FOIA Request No. 24-02735-F, producing an additional 2,266 pages in its response. On  
7 that same date, the Department closed FOIA Request No. 24-02735-F"; but no where does it  
8 state those documents were made available to the PLAINTIFF.  
9
- 10 6. On January 6, 2025, after close of business, the PLAINTIFF filed the First Motion to Compel  
11 Subpoena Duces Tecum with this Court. Due to a small technicality, PLAINTIFF filed a  
12 Second Motion to Compel Subpoena Duces Tecum that remedied the technicality of the First  
13 Motion to Compel; and PLAINTIFF respectfully requests Your Honor, grant her Second  
14 Motion to Compel her subpoena served on OCR as part of the FOIA Hearing, scheduled on  
15 February 18, 2025, at 9:30 AM PST.  
16
- 17 7. The PLAINTIFF objects to the U.S. Attorney's Office representing the Department of  
18 Education, a Status Report by the U.S. Attorney's Office, was only filed after the PLAINTIFF  
19 emailed all involved parties, including the Magistrate Judge's Clerk, the part of ECF Order  
20 38, which stipulated OCR, DoEd Counsel, and "an appropriate representative of the  
21 Department," may appear at the FOIA Hearing. The U.S. Attorney's Office, does not qualify  
22 as appropriate representation, and the Department of Education and OCR should be compelled  
23 to appear before this Court.  
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25  
26  
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Dated: January 15, 2025

Respectfully Submitted By:

/s/Genay L Amerson

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Signature of this document certifies that a copy was served to the persons named below on the date and in the manner indicated:

<u>Person Served</u>	<u>Party</u>	<u>Date</u>	<u>Method</u>
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